

## LABOUR DEPARTMENT

The 4th May, 1978

No. 11 (112)-3Lab-78/4536.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workmen and the management of M/s Palace Theatre (P) Ltd. Rohtak.

BEFORE SHRI MOHAN LAL JAIN, PRESIDING OFFICER, LABOUR COURT,  
HARYANA, ROHTAK

Reference No. 1 of 1977

*between*

SHRI CHUNI LAL, WORKMAN AND THE MANAGEMENT OF M/S  
PALACE THEATRE (P) LTD., ROHTAK

## AWARD

By order No. ID/1601, dated 14th January, 1977, the Governor of Haryana referred the following dispute between the management of M/s Palace Theatre (P) Ltd., Rohtak and its workman Shri Chuni Lal to this Court for adjudication in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Chuni Lal was justified and in order ? If not, to what relief is he entitled ?

The parties put in their appearance in this Court in response to the usual notices of reference sent to them and filed their pleadings.

The workman concerned prayed for treating the notice of demand dated 4th November, 1976 served by him on the management concerned with the allegations that the later illegally terminated his services with effect from 1st November, 1976, without assigning any reasons and that he was entitled to reinstatement with continuity of service and full back wages as his claim statement.

The management concerned denied the allegations of the workman that they terminated his services,—*vide* written statement filed by them and pleaded that he on the other hand voluntarily abandoned his job by absenting himself from duty during the period from 28th October, 1976 to 8th November, 1976, without obtaining leave or their permission and without intimating them the reasons for his absence. They stated that they struck his name off the rolls of their employees with effect from 8th November, 1976.

The workman reiterated the allegations made by him in the notice of demand,—*vide* rejoinder filed by him with the result that the following issue was framed by me,—*vide* order dated 19th April, 1976 :—

1. Whether the workman voluntarily abandoned his job by way of absenting himself from duty during the period from 28th October, 1976 to 7th November, 1976.

I have heard learned authorised representatives of the parties and seen the records. The management examined Shri Prem Nath their Accountant and K. L. Sethi, their

Manager, in support of their plea covered by issue No. 1. Shri Prem Nath deposed that on the workman absenting himself from duty with effect from 28th October, 1976, he went to his residence on 5th November, 1976, on the instructions of the management and asked him the reasons of his absence from duty and that he was told by him (workman) that he would not resume the duty as he was not physically fit to discharge long hours duty on account of his old age. Shri K.L. Sethi corroborated the statement of Shri Prem Nath while deposing that he had been told by the later about the workman having expressed his inability to serve the management on account of his old age. Shri K.L. Sethi brought on record the copies Exhibit M.1 and M-2 of the register of attendance of the employees of the management showing the absence of the workman concerned from duty during the period from 28th October, 1976 to 7th November, 1976. Nothing could be brought in cross-examination of the witnesses of the management to justify rejection of their evidence as false.

The workman while bringing on record the copy of the application dated 28th October, 1976, Ex. W-3 alleged to have been made by him for grant of leave of the period from 28th October, 1976 to 31st October, 1976, in fact admitted that he remained absent from duty during the period from 28th October, 1976 to 7th November, 1976, with permission of the management under their orders sanctioning his leave. It is, however, significant to note that he brought on record the aforesaid copy, for the first time on 2nd February, 1978, and did not even make a suggestion of his having ever applied for leave, to Shri Prem Nath and K.L. Sethi witnesses of the management in their cross-examination. It would be further interesting to note that the workman never pleaded either in the notice of demand or in his rejoinder that he applied for sanction of leave. Even otherwise he failed to prove the genuineness of copy Ex. W-3 and the factum of his having made an application for grant of leave by substantial cogent and tangible evidence. His oral solitary statement made by him on 2nd February, 1976, for the first time that he made such an application, without any prior indication at the time of his serving the notice of demand on the management on 4th November, 1976 and at the time of his filing the rejoinder on 19th April, 1976, and without such suggestion to Shri Prem Nath, Accountant, on 1st July, 1977 and Shri K.L. Sethi on 1st September, 1977, is hardly sufficient to establish his having proceeded on leave during the period from 28th October, 1976 to 7th November, 1976 and taken from any angle the aforesaid circumstances lend sufficient corroboration to the plea and the evidence of the witnesses of the management, that the workman concerned abandoned his job voluntarily by absenting himself from duty with effect from 28th October, 1976 to 7th November, 1976 and refused to join duties despite being asked to do so by Shri Prem Nath on instructions of the management, on the plea that he was not physically fit to discharge long hours duty on account of his old age.

I, therefore, relying on the evidence oral and documentary led by the management and placing no reliance on the solitary oral statement of Shri Chuni Lal Jain decide issue No. 1 in favour of the management. The workman is obviously not entitled to any relief in view of my findings on issue No. 1. I, therefore, answer the reference while returning the award in these terms.

Dated the 19th April, 1978

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.

No. 1094, dated the 24th April, 1978

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

MOHAN LAL JAIN,  
Presiding Officer,  
Labour Court, Haryana,  
Rohtak.